

Omar Kuhn

July 17, 2006

Federal Trade Commission/Office of the Secretary, Room H-135 (Annex W)  
Re: Business Opportunity Rule, R511993  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

**RE: Business Opportunity Rule, R511993**

Dear Sir/Madam,

I am writing in response to the proposed New Business Opportunity Rule R511993, if not modified, will be a significant impediment and burden to the network marketing industry. This new rule, although well-intended, represents a significant burden to the free market trade.

**I am opposed the seven-day waiting period because it is an excessive burden.** The proposed rule would require a de facto seven day waiting period to enroll new distributors. In essence, one would have to sell a person twice on the same business—even if the start-up fee is a mere \$35.00. While I support some of the disclosures with modification, I am opposed to a seven-day waiting period because it is excessive burden to any company and distributor who would be required to document and follow-up on the process and an impediment to new business development.

**(Earnings disclosure)** The rule requires that any earnings claim statement made by the distributor or company to a prospect, whether written or oral, general or specific, be validated with a detailed "Earnings Claims Statement Required By Law." Additionally, the distributor would be required to provide written substantiation of any earnings claim made upon request. I support the disclosure of an average earnings income statement because it is good business practices to establish realistic expectations. However, I oppose being forced to provide written substantiation because it is an excessive burden considering the investment of money to enter into the business is nominal, for example \$35.00..

**(Previous litigation)** The rule also calls for the release of any information regarding prior litigation and civil or criminal legal actions involving misrepresentation, or unfair or deceptive practices, even if you were found innocent. In our lawsuit-happy culture, anyone can be sued for anything almost with impunity. Irregardless of the outcome, you would have to disclose it and explain it to a new business associate which is patently unfair. This is unfair in a county where we believe everyone is innocent until proven guilty, and it would paint a biased stain on the company. I would only support the disclosure of previous litigation of companies, executives, affiliated companies and the like involving fraud and misrepresentation *only if the party is found guilty*. If the defendant is found not guilty, the opposing parties agreed to settle without admission of guilt or the case is still pending, then it should not be necessary to disclose this information. If the parties agreed to settle without admission of guilt, there usually is some public document available, particularly if it involves a government agency and further disclosure therefore would be unnecessary. If a case is pending case, it shouldn't be commented upon.

**(References)** Lastly, the rule *requires* the disclosure of a minimum of 10 purchasers closest to you. While it is a good practice to provide references of satisfied customers, this is a burden for small businesses and, as a requirement, is a violation of personal confidentiality. Unfortunately, requiring

## Draft Letter to FTC on Business Opportunity Rule, R511993

the release of this information can threaten the business relationship of the references who may be involved in other companies or businesses. In addition, it subjects these references to cross-marketing by competitors. I am recommending that contact information for purchasers be available upon request and that due to Internet-marketing, they not be limited to geographic proximity.

The network marketing industry is one of the few remaining opportunities for people to leverage their time and limited resources to earn additional income or to create a new career. Once scoffed at by investors, many network marketing companies are publicly traded on Wall Street including Herbalife, Nu Skin, Pre-Paid Legal Services, USANA and others. Network marketing is being used by blue-chip corporations including Citigroup, MCI and IBM. Top business management leaders and *New York Times* best-selling authors Robert Kiyosaki, Paul Zane Pilsner, and Steve Covey have endorsed network marketing. Even Warren Buffet has seen the value of network marketing companies by being an owner of the Pampered Chef.

The industry is also growing in popularity and contributes to the US economy. This growth should be encouraged. There are 13 million Americans involved in this network marketing industry today. Lastly, the network marketing industry contributes to our growing economy. Sales of products and services through network marketing are estimated at more than \$29 billion in 2003.

I have been involved in the network marketing industry for more than 2 years. I have met some of the finest people and have been introduced to some of the best products. I became involved because the network marketing industry offers the average person a chance at great success with little or no risk. I've stayed involved because I've seen the positive transformation this industry has had on me and other distributors. I've seen people go from a shy, quiet person to a powerful leader in this industry. Why? Because in order to be successful in this industry you have to grow as a person from the inside out, and help many other people grow in the same manner. We need more of this type of giving mentality in this country. I'm a successful business professional working for a Fortune 500 company, and I hold a Masters Degree. I can tell you quite frankly that the self development and leadership education you receive in the network marketing industry was never taught to me in my high school or universities. This industry transforms people into better human beings.

I understand and value the role of the FTC mission "to stand up for America's free market process and for its consumers, who benefit from competitive markets in which truthful information flows." However, I believe this proposed new rule exceeds what is necessary and needs significant modification. We live in a free market economy where people have the responsibility of making informed decisions based on best information. A better approach would be to provide consumers with objective criteria when analyzing a business opportunity and let an informed market proceed. I am in support that disclosures should be made during the sales process without the requirement of a seven-day waiting period, only if modified as suggested.

Thank you, in advance, for reviewing and posting my comments.

Best regards,

Omar Kuhn